

REMARKS

In the Office Action, the Examiner rejected claims 1-53. However, for the reasons set forth below, Applicants respectfully submit that all of pending claims 1-53 are allowable in their present form. Applicants respectfully request reconsideration of the above-referenced application in view of the following remarks.

Applicants thank the Examiner for his participation in a telephonic interview with the undersigned representative on June 24, 2005. In this interview, the claims of the present patent application and the prior art of record were generally discussed. Particularly, during the interview, Applicants' noted that the present rejections were logically inconsistent for reasons including those provided below. However, the Examiner indicated that he did not have signatory authority and that Applicants would have to contact his supervisor to address the improper rejection. As such, Applicants respectfully request an interview with the Examiner and his supervisor to further discuss the present case and the deficiencies of the art of record. While the Examiner tentatively scheduled an interview for July 27, 2005, at 3:00 pm EDT, Applicants would greatly appreciate an earlier interview to allow Applicants a reasonable opportunity to take any further action necessary to advance the present case prior to the three-month deadline of July 26, 2005.

Rejections Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1-4, 7-13, 15, 18-21, 24-26, 28, 31-34, and 36-38 under 35 U.S.C. § 103(a) as unpatentable over Crane (U.S. Patent No. 5,748,907) in view of Powers et al. (U.S. Patent No. 6,604,084) and Wong et al. (U.S. Patent No. 6,260,021). The Examiner rejected claims 22, 23, 29, 30, 35, and 39-53 as unpatentable over Crane in view of Powers et al., Kenner et al., and Wong et al. The Examiner also rejected claims 5, 6, 14, 16, and 17 as unpatentable over Crane in view of

Powers et al. and Kenner et al. Finally, the Examiner rejected claim 27 as unpatentable over Crane in view of Powers et al. Applicants respectfully traverse these rejections.

As a preliminary matter, Applicants respectfully note that the rejections of claims 5, 6, 14, 16, 17, and 27, each of which depends from one of independent claims 1 or 19, are facially improper. In the Office Action, the Examiner recognized that the Crane and Powers et al. references fail to teach every element of independent claims 1 and 19. In an attempt to correct these deficiencies, the Examiner further relied on Wong et al. in rejecting claims 1 and 19. However, the Examiner provided separate rejections of dependent claims 5, 6, 14, 16, 17, and 27, on the basis of combinations of the Crane, Powers et al., and Kenner et al. references. The Wong et al. reference was noticeably omitted from these rejections. While Applicants believe that this omission may have been inadvertent, Applicants respectfully request clarification of these rejections in a future Office Action should the Examiner maintain these rejections even after reconsideration in view of the present remarks.

Legal Precedent

First, the burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d. 1430 (Fed. Cir. 1990). Accordingly, to establish a *prima facie* case, the Examiner must not only show that the combination includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention

to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985). The Examiner must provide objective evidence, rather than subjective belief and unknown authority, of the requisite motivation or suggestion to combine or modify the cited references. *In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002).

Second, when prior art references require a selected combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself, i.e., something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination. *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988). One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988).

Third, Applicants respectfully remind the Examiner that, during patent examination, the pending claims must be given an interpretation that is *reasonable* and *consistent* with the specification. *See In re Prater*, 162 U.S.P.Q. 541, 550-51 (C.C.P.A. 1969); *see also In re Morris*, 44 U.S.P.Q.2d 1023, 1027-28 (Fed. Cir. 1997); *see also* M.P.E.P. §§ 608.01(o) and 2111. Moreover, any interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *See In re Cortright*, 49 U.S.P.Q.2d 1464, 1468 (Fed. Cir. 1999); *see also* M.P.E.P. § 2111.

Deficiencies of the Rejection of Independent Claim 1

Turning now to the present claims, Applicants respectfully note that the Crane, Powers et al., and Wong et al. references fail to disclose each element of independent claim 1. For instance, independent claim 1 recites “client data comprising *operational data relating to a medical system* employed at a medical facility” (emphasis added).

Because the cited references fail to disclose such an element, the cited references cannot support a *prima facie* case of obviousness with respect to independent claim 1.

In the Office Action, the Examiner conceded that Crane and Powers et al. fail to "explicitly teach client data from medical system modalities comprising a medical diagnostic system." Final Office Action mailed April 26, 2005, page 3. Applicants note that independent claim 1 actually recites "client data comprising operational data relating to a medical system," and not just "client data from medical system modalities." Further, Applicants respectfully note that the present Final Office Action is at least ambiguous with respect to the rationale for the present rejections and fails to indicate which element or elements the Examiner believes Wong et al. discloses. In one instance, the Examiner appears to explain his reliance on the Wong et al. reference by stating: "The Examiner the communication between the client and server objects to including client data from the different PAC system" (errors in original). It should be noted that Applicants' present remarks are a genuine attempt to address the Examiner's rejections and rationale. However, to the extent that Applicants may misconstrue the Examiner's intended rejections, Applicants respectfully request clarification of the rejections in a future Office Action so that Applicants may have a fair and reasonable opportunity to address the intended rejections.

As best understood by the Applicants, in an attempt to obviate the deficiencies of the Crane and Powers et al. references, the Examiner additionally cited Wong et al. as teaching "client data comprising operational data relating to a medical system." As noted by the Examiner, the Wong et al. reference teaches a picture archiving and communication system (PAC), i.e. a computer system for storing and transmitting *image* data. Col. 1, lines 21-38. Applicants, however, respectfully note that image data obtained from a PAC has nothing to do with the actual *operation* of a medical system and, hence, the image data of Wong et al. cannot be *reasonably* equated with "client data

comprising operational data relating to a medical system" as recited by independent claim 1. Consequently, Applicants submit that the prior art of record fails to disclose each and every element of independent claim 1. Moreover, even if, for the sake of argument, image data could be considered "client data comprising operational data relating to a medical system," it is apparent that the image data of Wong et al. is not logically comparable to the presently recited data.

Independent claim 1 further recites a productivity analysis system, "*analyzing the client data* with the productivity analysis system" (emphasis added), and "providing a productivity analysis report." Applicants again respectfully note that the Wong et al. data is *image data*. As noted in the Examiner interview summarized above, image data *cannot* be analyzed to determine the productivity of the device that produces the image. As would be appreciated by one skilled in the art, a person cannot walk into an art museum, look at a painting, and thereby determine the productivity of the artist who produced the painting. Further, a person cannot analyze a photograph to determine the efficiency of the camera with which it was taken. Similarly, Applicants respectfully submit that the image data of Wong et al. cannot be analyzed to determine the productivity of a medical resource. In fact, neither the art of record nor the Examiner suggests that such analysis is possible. While Applicants maintain that image data cannot be properly construed as operational data, it is evident that, because the image data cannot be analyzed for productivity, the image data of Wong et al. cannot be logically equated with the data recited by the present claim. Moreover, the Powers et al. and Crane references fail to obviate the deficiencies of the Wong et al. reference. Accordingly, Applicants respectfully assert that the cited references, taken alone or in combination, fail to disclose all of the features recited in independent claim 1. Because the cited references fail to disclose each and every element, independent claim 1 is believed allowable over the art of record.

Deficiencies of the Rejections of Independent Claims 19, 31, and 41

Further, the Wong et al. reference is equally deficient with respect to independent claims 19, 31, and 41. For instance, independent claim 19 recites generating a productivity report from the client data comprising medical procedure data. Independent claim 31 recites a productivity analysis system that uses client data comprising "medical procedure statistics associated with the medical diagnostic system." Independent claim 41 recites "client data comprising procedure statistics associated with an imaging system" and analyzing the client data with a productivity analysis system. The cited references are believed to be deficient for at least the reasons provided above with respect to claim 1. Particularly, Applicants submit that the Wong et al. image data is not properly identifiable as either "medical procedure statistics" or "procedure statistics" as recited by independent claims 31 and 41, respectively. Further, even if the Wong et al. image data could be reasonably compared to *generic* medical procedure data or procedure statistics, it is clear that this image data cannot be analyzed for productivity of a system and, thus, cannot be reasonably compared to the *particular* procedure data or procedure statistics recited in the present claims. Applicants note that the other art of record fails to obviate the deficiencies of the Wong et al. reference. Accordingly, Applicants respectfully submit that independent claims 19, 31, and 41 are allowable over the cited references.

Deficiencies of the Rejections of the Dependent Claims

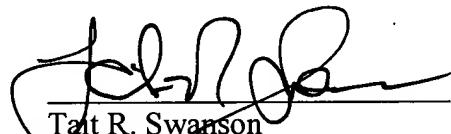
Finally, Applicants note that claims 2-18, 20-30, 32-40, and 42-53 depend from independent claims 1, 19, 31, and 41, respectively. As discussed above, the art of record fails to disclose each element of independent claims 1, 19, 31, and 41. As a result, dependent claims 2-18, 20-30, 32-40, and 42-53 are allowable on the basis of their dependency from a respective allowable independent claim, as well as for the subject matter separately recited in these dependent claims. Accordingly, Applicants respectfully request withdrawal of the Examiner's rejection and allowance of claims 2-18, 20-30, 32-40, and 42-53.

For these reasons, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. § 103 and allowance of claims 1-53.

Conclusion

In view of the remarks and amendments set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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